

(4) Foreign businesses, large United States businesses, and persons from whom an Edge Corporation may accept deposits under § 211.4(e)(1) of Regulation K of the Board of Governors of the Federal Reserve System, 12 CFR 211.4(e)(1);

(5) Any governmental unit, including the United States government, any state government, any foreign government and any political subdivision or agency of any of the foregoing, and recognized international organizations;

(6) Persons who are depositing funds in connection with the issuance of a financial instrument by the branch for the transmission of funds or the transmission of such funds by any electronic means; and

(7) Any other depositor, but only if the branch's average deposits under this paragraph (a)(7) do not exceed one percent of the branch's average total deposits for the last 30 days of the most recent calendar quarter (de minimis exception). In calculating this de minimis exception, both the average deposits under this paragraph (a)(7) and the average total deposits shall be computed by summing the close of business figures for each of the last 30 calendar days, ending with and including the last day of the calendar quarter, and dividing the resulting sum by 30. For days on which the branch is closed, balances from the last previous business day are to be used. In determining its average branch deposits, the branch may exclude deposits in the branch of other offices, branches, agencies or wholly owned subsidiaries of the bank. In addition, the branch must not solicit deposits from the general public by advertising, display of signs, or similar activity designed to attract the attention of the general public. A foreign bank which has more than one state branch in the same state may aggregate deposits in such branches (excluding deposits of other branches, agencies or wholly owned subsidiaries of the bank) for the purpose of this paragraph (a)(7).

(b) *Application for an exemption.* (1) Whenever a foreign bank proposes to accept at a state branch initial deposits of less than \$100,000 and such deposits are not otherwise excepted under paragraph (a) of this section, the for-

eign bank may apply to the FDIC for consent to operate the branch as a non-insured branch. The Board of Directors may exempt the branch from the insurance requirement if the branch is not engaged in domestic retail deposit activities requiring insurance protection. The Board of Directors will consider the size and nature of depositors and deposit accounts, the importance of maintaining and improving the availability of credit to all sectors of the United States economy, including the international trade finance sector of the United States economy, whether the exemption would give the foreign bank an unfair competitive advantage over United States banking organizations, and any other relevant factors in making this determination.

(2) Procedures for applications under this section are set out in subpart D of this part.

(c) *Transition period.* A noninsured state branch may maintain a retail deposit lawfully accepted prior to April 1, 1996 pursuant to regulations in effect prior to July 1, 1998 (See § 346.6 as contained in 12 CFR parts 300 to 499 revised as of January 1, 1998):

(1) If the deposit qualifies pursuant to paragraph (a) or (b) of this section; or

(2) If the deposit does not qualify pursuant to paragraph (a) or (b) of this section, no later than:

(i) In the case of a non-time deposit, five years from April 1, 1996; or

(ii) In the case of a time deposit, the first maturity date of the time deposit after April 1, 1996.

#### § 347.207 Notification to depositors.

Any state branch that is exempt from the insurance requirement pursuant to § 347.206 shall:

(a) Display conspicuously at each window or place where deposits are usually accepted a sign stating that deposits are not insured by the FDIC; and

(b) Include in bold face conspicuous type on each signature card, passbook, and instrument evidencing a deposit the statement "This deposit is not insured by the FDIC"; or require each depositor to execute a statement which acknowledges that the initial deposit and all future deposits at the branch

are not insured by the FDIC. This acknowledgment shall be retained by the branch so long as the depositor maintains any deposit with the branch. This provision applies to any negotiable certificates of deposit made in a branch on or after July 6, 1989, as well as to any renewals of such deposits which become effective on or after July 6, 1989.

**§ 347.208 Agreement to provide information and to be examined.**

(a) A foreign bank that applies for insurance for any branch shall agree in writing to the following terms:

(1)(i) The foreign bank will provide the FDIC with information regarding the affairs of the foreign bank and its affiliates which are located outside of the United States as the FDIC from time to time may request to:

(A) Determine the relations between the insured branch and the foreign bank and its affiliates; and

(B) Assess the financial condition of the foreign bank as it relates to the insured branch.

(ii) If the laws of the country of the foreign bank's domicile or the policy of the Central Bank or other banking authority prohibit or restrict the foreign bank from entering into this agreement, the foreign bank shall agree to provide information to the extent permitted by such law or policy. Information provided shall be in English and in the form requested by the FDIC and shall be made available in the United States. The Board of Directors will consider the existence and extent of this prohibition or restriction in determining whether to grant insurance and may deny the application if the information available is so limited in extent that an unacceptable risk to the insurance fund is presented.

(2)(i) The FDIC may examine the affairs of any office, agency, branch or affiliate of the foreign bank located in the United States as the FDIC deems necessary to:

(A) Determine the relations between the insured branch and such offices, agencies, branches or affiliates; and

(B) Assess the financial condition of the foreign bank as it relates to the insured branch.

(ii) The foreign bank shall also agree to provide the FDIC with information

regarding the affairs of such offices, agencies, branches or affiliates as the FDIC deems necessary. The Board of Directors will not grant insurance to any branch if the foreign bank fails to enter into an agreement as required under this paragraph (a).

(b) The agreement shall be signed by an officer of the foreign bank who has been so authorized by the foreign bank's board of directors. The agreement and the authorization shall be included with the foreign bank's application for insurance. Any agreement not in English shall be accompanied by an English translation.

**§ 347.209 Records.**

(a) Each insured branch shall keep a set of accounts and records in the words and figures of the English language which accurately reflect the business transactions of the insured branch on a daily basis.

(b) The records of each insured branch shall be kept as though it were a separate entity, with its assets and liabilities separate from the other operations of the head office, other branches or agencies of the foreign bank and its subsidiaries or affiliates. A foreign bank which has more than one insured branch in a state may treat such insured branches as one entity for record keeping purposes and may designate one branch to maintain records for all the branches in the state.

**§ 347.210 Pledge of assets.**

(a) *Purpose.* A foreign bank that has an insured branch shall pledge assets for the benefit of the FDIC or its designee(s). Whenever the FDIC is obligated under section 11(f) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f)) to pay the insured deposits of an insured branch, the assets pledged under this section shall become the property of the FDIC to be used to the extent necessary to protect the deposit insurance fund.

(b) *Amount of assets to be pledged.* (1) A foreign bank shall pledge assets equal to five percent of the average of the insured branch's liabilities for the last 30 days of the most recent calendar quarter. This average shall be computed by using the sum of the close of business